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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,347	02/01/2001	Yechiam Yemini	18704-017	7197

28089 7590 09/22/2004

WILMER CUTLER PICKERING HALE AND DORR LLP
300 PARK AVENUE
NEW YORK, NY 10022

EXAMINER

VAUGHN JR, WILLIAM C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,347

Applicant(s)

YEMINI ET AL.

Examiner

William C. Vaughn, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8, 9, 10</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This Action is in response to the most recent papers filed 20 May 2004.

Priority

2. This application is claims priority to Provisional Application Serial No. 60,179,884, filed 02 February 2000, and to Provisional Application Serial No. 60/216,403, filed 06 July 2000.

This Application also cites several related application without stating their application number.

Specification

3. The disclosure is objected to because of the following informalities: The specification references provisional applications as well as several related applications on Page 1 of the specification. The current state of these applications, reflecting the status of present pendency, (i.e., abandonment or patent maturity) including associated patent numbers, should be amended into the specification.

Information Disclosure Statement

4. The references listed in the Information Disclosure Statement submitted on 30 August 2001, 06 March 2002 and 15 January 2003 have been considered by the examiner (see attached PTO-1449).

5. The application has been examined. **Claims 1-40** are pending. The objection(s) and rejection(s) cited are as stated below:

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen et al. (Jensen), U.S. Patent No. 5,870,564 in view of Yamazaki, U.S. Patent No. 5,655,134.

8. Regarding independent claims 1, 15, 31 and 36, (e.g., exemplary independent claim 1), Jensen discloses the invention substantially as claimed. Jensen discloses a network comprising a plurality of nodes interconnected by links [see Jensen, Figure 1, items 140, 142, 144, Col. 13, lines 65-67], (a) each node is assigned a set of one or more coordinate labels, [see Jensen, Col. 54-67] (b) at least one of said set of one or more coordinate labels is additionally comprised of service information [see Jensen, Col. 3, lines 45-54]. However, Jensen does explicitly disclose reach representing a path comprising one or more links or other nodes as well as each coordinate label is unique to the node to which it is assigned and (d) a path between a first node being determined from one of said coordinate labels associated with said first node and one of said coordinate labels associated with said second node

9. In the same field of endeavor, Yamazaki discloses (e.g., network structure storing and retrieval method for a data processor). Yamazaki discloses each representing a path comprising one or more links or other nodes [see Yamazaki, Col. 8, lines 12-39, Figure 2a-4, 3, 4, 5a-f, 6a-1] (c) each coordinate label is unique to the node to which it is assigned [see Yamazaki, abstract], and (d) a path between a first node being determined from one of said coordinate labels

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associated with said first node and one of said coordinate labels associated with said second node [see Yamazaki, Col. 2, lines 40-46, Col. 3, lines 55-64 and Col. 4, lines 5-26].

10. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Yamazaki's teachings of a network structure storing and retrieval method for a data processor with the teachings of Jenson's for the purpose of being able to automatically assign link identifiers to each link connecting respective nodes [see Yamazaki, Col. 2, lines 42-54]. By this rationale claim 1 is rejected.

11. Regarding claims 2-14, the limitations of these claims are taught within the figures and specification of Jenson-Yamazaki. Furthermore, with regards to the limitation of service information including bandwidth for at least one of said one or more links [see Jenson, Col. 3, lines 45-53 and Col. 4, lines 1-56] and a cost metric information [see Jenson, Col. 3, lines 45-53], load information [see Jenson, Col. 4, lines 1-5].

Double Patenting

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

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provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

~~Claims 1-40 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-20 of copending Application No. 09/775,349. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.~~

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William C. Vaughn, Jr.

Primary Examiner

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17 September 2004